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**SUBSTITUTE HOUSE BILL 1229**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Caldier, Kilduff, Klippert, Pettigrew, Appleton, and Santos)

READ FIRST TIME 02/04/19.

1 AN ACT Relating to photographs, microphotographs, and electronic  
2 images from traffic safety cameras and toll systems; and amending RCW  
3 46.63.170, 46.63.160, and 47.56.795.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each  
6 amended to read as follows:

7 (1) The use of automated traffic safety cameras for issuance of  
8 notices of infraction is subject to the following requirements:

9 (a) The appropriate local legislative authority must prepare an  
10 analysis of the locations within the jurisdiction where automated  
11 traffic safety cameras are proposed to be located: (i) Before  
12 enacting an ordinance allowing for the initial use of automated  
13 traffic safety cameras; and (ii) before adding additional cameras or  
14 relocating any existing camera to a new location within the  
15 jurisdiction. Automated traffic safety cameras may be used to detect  
16 one or more of the following: Stoplight, railroad crossing, or school  
17 speed zone violations; or speed violations subject to (c) of this  
18 subsection. At a minimum, the local ordinance must contain the  
19 restrictions described in this section and provisions for public  
20 notice and signage. Cities and counties using automated traffic  
21 safety cameras before July 24, 2005, are subject to the restrictions

1 described in this section, but are not required to enact an  
2 authorizing ordinance. Beginning one year after June 7, 2012, cities  
3 and counties using automated traffic safety cameras must post an  
4 annual report of the number of traffic accidents that occurred at  
5 each location where an automated traffic safety camera is located as  
6 well as the number of notices of infraction issued for each camera  
7 and any other relevant information about the automated traffic safety  
8 cameras that the city or county deems appropriate on the city's or  
9 county's web site.

10 (b) Except as provided in (c) of this subsection, use of  
11 automated traffic safety cameras is restricted to the following  
12 locations only: (i) Intersections of two arterials with traffic  
13 control signals that have yellow change interval durations in  
14 accordance with RCW 47.36.022, which interval durations may not be  
15 reduced after placement of the camera; (ii) railroad crossings; and  
16 (iii) school speed zones.

17 (c) Any city west of the Cascade mountains with a population of  
18 more than one hundred ninety-five thousand located in a county with a  
19 population of fewer than one million five hundred thousand may  
20 operate an automated traffic safety camera to detect speed violations  
21 subject to the following limitations:

22 (i) A city may only operate one such automated traffic safety  
23 camera within its respective jurisdiction; and

24 (ii) The use and location of the automated traffic safety camera  
25 must have first been authorized by the Washington state legislature  
26 as a pilot project for at least one full year.

27 (d) Automated traffic safety cameras may only take pictures of  
28 the vehicle and vehicle license plate and only while an infraction is  
29 occurring. The picture must not reveal the face of the driver or of  
30 passengers in the vehicle. The primary purpose of camera placement is  
31 to take pictures of the vehicle and vehicle license plate when an  
32 infraction is occurring. Cities and counties shall consider  
33 installing cameras in a manner that minimizes the impact of camera  
34 flash on drivers.

35 (e) A notice of infraction must be mailed to the registered owner  
36 of the vehicle within fourteen days of the violation, or to the  
37 renter of a vehicle within fourteen days of establishing the renter's  
38 name and address under subsection (3)(a) of this section. The law  
39 enforcement officer issuing the notice of infraction shall include  
40 with it a certificate or facsimile thereof, based upon inspection of

1 photographs, microphotographs, or electronic images produced by an  
2 automated traffic safety camera, stating the facts supporting the  
3 notice of infraction. This certificate or facsimile is prima facie  
4 evidence of the facts contained in it and is admissible in a  
5 proceeding charging a violation under this chapter. The photographs,  
6 microphotographs, or electronic images evidencing the violation must  
7 be available for inspection and admission into evidence in a  
8 proceeding to adjudicate the liability for the infraction. A person  
9 receiving a notice of infraction based on evidence detected by an  
10 automated traffic safety camera may respond to the notice by mail.

11 (f) The registered owner of a vehicle is responsible for an  
12 infraction under RCW 46.63.030(1)(d) unless the registered owner  
13 overcomes the presumption in RCW 46.63.075, or, in the case of a  
14 rental car business, satisfies the conditions under subsection (3) of  
15 this section. If appropriate under the circumstances, a renter  
16 identified under subsection (3)(a) of this section is responsible for  
17 an infraction.

18 (g) Notwithstanding any other provision of law, ~~((all))~~  
19 photographs, microphotographs, ~~((or))~~ and electronic images prepared  
20 under this section ~~((are for the exclusive use of law enforcement in  
21 the discharge of duties under this section and))~~ are not open to the  
22 public ~~((and may not be used in a court in a pending action or  
23 proceeding unless the action or proceeding relates to a violation  
24 under this section))~~. Photographs, microphotographs, and electronic  
25 images prepared under this section may be used for the following  
26 purposes only: (i) The enforcement of civil infractions by law  
27 enforcement as authorized under this section, including court  
28 proceedings relating to the enforcement of those civil infractions;  
29 and (ii) the investigation and prosecution of crimes pursuant to a  
30 lawfully issued search warrant. ((No)) Any photograph,  
31 microphotograph, or electronic image may not be used for any other  
32 purpose ~~((other than enforcement of violations under this section  
33 or))~~ and may not be used in court for any other pending action or  
34 proceeding. Except when otherwise directed by a court order, no  
35 photograph, microphotograph, or electronic image may be retained  
36 longer than necessary to enforce this section.

37 (h) All locations where an automated traffic safety camera is  
38 used must be clearly marked at least thirty days prior to activation  
39 of the camera by placing signs in locations that clearly indicate to  
40 a driver that he or she is entering a zone where traffic laws are

1 enforced by an automated traffic safety camera. Signs placed in  
2 automated traffic safety camera locations after June 7, 2012, must  
3 follow the specifications and guidelines under the manual of uniform  
4 traffic control devices for streets and highways as adopted by the  
5 department of transportation under chapter 47.36 RCW.

6 (i) If a county or city has established an authorized automated  
7 traffic safety camera program under this section, the compensation  
8 paid to the manufacturer or vendor of the equipment used must be  
9 based only upon the value of the equipment and services provided or  
10 rendered in support of the system, and may not be based upon a  
11 portion of the fine or civil penalty imposed or the revenue generated  
12 by the equipment.

13 (2) Infractions detected through the use of automated traffic  
14 safety cameras are not part of the registered owner's driving record  
15 under RCW 46.52.101 and 46.52.120. Additionally, infractions  
16 generated by the use of automated traffic safety cameras under this  
17 section shall be processed in the same manner as parking infractions,  
18 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120,  
19 and 46.20.270(2). The amount of the fine issued for an infraction  
20 generated through the use of an automated traffic safety camera shall  
21 not exceed the amount of a fine issued for other parking infractions  
22 within the jurisdiction. However, the amount of the fine issued for a  
23 traffic control signal violation detected through the use of an  
24 automated traffic safety camera shall not exceed the monetary penalty  
25 for a violation of RCW 46.61.050 as provided under RCW 46.63.110,  
26 including all applicable statutory assessments.

27 (3) If the registered owner of the vehicle is a rental car  
28 business, the law enforcement agency shall, before a notice of  
29 infraction being issued under this section, provide a written notice  
30 to the rental car business that a notice of infraction may be issued  
31 to the rental car business if the rental car business does not,  
32 within eighteen days of receiving the written notice, provide to the  
33 issuing agency by return mail:

34 (a) A statement under oath stating the name and known mailing  
35 address of the individual driving or renting the vehicle when the  
36 infraction occurred; or

37 (b) A statement under oath that the business is unable to  
38 determine who was driving or renting the vehicle at the time the  
39 infraction occurred because the vehicle was stolen at the time of the  
40 infraction. A statement provided under this subsection must be

1 accompanied by a copy of a filed police report regarding the vehicle  
2 theft; or

3 (c) In lieu of identifying the vehicle operator, the rental car  
4 business may pay the applicable penalty.

5 Timely mailing of this statement to the issuing law enforcement  
6 agency relieves a rental car business of any liability under this  
7 chapter for the notice of infraction.

8 (4) Nothing in this section prohibits a law enforcement officer  
9 from issuing a notice of traffic infraction to a person in control of  
10 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
11 (b), or (c).

12 (5) For the purposes of this section, "automated traffic safety  
13 camera" means a device that uses a vehicle sensor installed to work  
14 in conjunction with an intersection traffic control system, a  
15 railroad grade crossing control system, or a speed measuring device,  
16 and a camera synchronized to automatically record one or more  
17 sequenced photographs, microphotographs, or electronic images of the  
18 rear of a motor vehicle at the time the vehicle fails to stop when  
19 facing a steady red traffic control signal or an activated railroad  
20 grade crossing control signal, or exceeds a speed limit as detected  
21 by a speed measuring device.

22 (6) During the 2011-2013 and 2013-2015 fiscal biennia, this  
23 section does not apply to automated traffic safety cameras for the  
24 purposes of section 216(5), chapter 367, Laws of 2011 and section  
25 216(6), chapter 306, Laws of 2013.

26 **Sec. 2.** RCW 46.63.160 and 2015 c 292 s 1 are each amended to  
27 read as follows:

28 (1) This section applies only to civil penalties for nonpayment  
29 of tolls detected through use of photo toll systems.

30 (2) Nothing in this section prohibits a law enforcement officer  
31 from issuing a notice of traffic infraction to a person in control of  
32 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
33 (b), or (c).

34 (3) A notice of civil penalty may be issued by the department of  
35 transportation when a toll is assessed through use of a photo toll  
36 system and the toll is not paid by the toll payment due date, which  
37 is eighty days from the date the vehicle uses the toll facility and  
38 incurs the toll charge.

1 (4) Any registered owner or renter of a vehicle traveling upon a  
2 toll facility operated under chapter 47.56 or 47.46 RCW is subject to  
3 a civil penalty governed by the administrative procedures set forth  
4 in this section when the vehicle incurs a toll charge and the toll is  
5 not paid by the toll payment due date, which is eighty days from the  
6 date the vehicle uses the toll facility and incurs the toll charge.

7 (5) (a) The department shall develop rules to allow an individual  
8 who has been issued a notice of civil penalty to present evidence of  
9 mitigating circumstances as to why a toll bill was not timely paid.  
10 If an individual is able to present verifiable evidence to the  
11 department that a civil penalty was incurred due to hospitalization,  
12 military deployment, eviction, homelessness, death of the alleged  
13 violator or of an alleged violator's immediate family member, failure  
14 to receive the toll bill due to an incorrect address that has since  
15 been corrected, a prepaid electronic toll account error that has  
16 since been corrected, an error made by the department or an agent of  
17 the department, or other mitigating circumstances as determined by  
18 the department, the department may dismiss or reduce the civil  
19 penalty and associated fees.

20 (b) (i) Consistent with chapter 34.05 RCW, the department of  
21 transportation shall develop an administrative adjudication process  
22 to review appeals of civil penalties issued by the department of  
23 transportation for toll nonpayment detected through the use of a  
24 photo toll system under this section. The department of  
25 transportation shall submit to the transportation committees of the  
26 legislature an annual report on the number of times adjudicators  
27 reduce or dismiss the civil penalty as provided in (b) (ii) of this  
28 subsection and the total amount of the civil penalties dismissed. The  
29 report must be submitted by December 1st of each year.

30 (ii) During the adjudication process, the alleged violator must  
31 have an opportunity to explain mitigating circumstances as to why the  
32 toll bill was not timely paid. Hospitalization, a divorce decree or  
33 legal separation agreement resulting in a transfer of the vehicle, an  
34 active duty member of the military or national guard covered by the  
35 federal service members civil relief act, 50 U.S.C. Sec. 501 et seq.,  
36 or state service members' civil relief act, chapter 38.42 RCW,  
37 eviction, homelessness, the death of the alleged violator or of an  
38 immediate family member, being switched to a different method of toll  
39 payment, if the alleged violator did not receive a toll charge bill  
40 or notice of civil penalty, or other mitigating circumstances as

1 determined by the adjudicator are deemed valid mitigating  
2 circumstances. All of the reasons that constitute mitigating  
3 circumstances must have occurred within a reasonable time of the  
4 alleged toll violation. In response to these circumstances, the  
5 adjudicator may reduce or dismiss the civil penalty and associated  
6 administrative fees.

7 (6) The use of a photo toll system is subject to the following  
8 requirements:

9 (a) Photo toll systems may take photographs, digital photographs,  
10 microphotographs, videotapes, or other recorded images of the vehicle  
11 and vehicle license plate only.

12 (b) A notice of civil penalty must include with it a certificate  
13 or facsimile thereof, based upon inspection of photographs,  
14 microphotographs, videotape, or other recorded images produced by a  
15 photo toll system, stating the facts supporting the notice of civil  
16 penalty. This certificate or facsimile is prima facie evidence of the  
17 facts contained in it and is admissible in a proceeding established  
18 under subsection (5) of this section. The photographs, digital  
19 photographs, microphotographs, videotape, or other recorded images  
20 evidencing the toll nonpayment civil penalty must be available for  
21 inspection and admission into evidence in a proceeding to adjudicate  
22 the liability for the civil penalty.

23 (c)(i) By June 30, 2016, prior to issuing a notice of civil  
24 penalty to a registered owner of a vehicle listed on an active  
25 prepaid electronic toll account, the department of transportation  
26 must:

27 (A) Send an ((~~electronic mail~~)) email notice to the email address  
28 provided in the prepaid electronic toll account of unpaid pay-by-mail  
29 toll bills at least ten days prior to a notice of civil penalty being  
30 issued for the associated pay-by-mail toll. The notice must be  
31 separate from any regular notice sent by the department; and

32 (B) Call the phone numbers provided in the account to provide  
33 notice of unpaid pay-by-mail toll bills at least ten days prior to a  
34 notice of civil penalty being issued for the associated pay-by-mail  
35 toll.

36 (ii) The department is relieved of its obligation to provide  
37 notice as required by this section if the customer has declined to  
38 receive communications from the department through such methods.

39 (d) Notwithstanding any other provision of law, ((~~all~~))  
40 photographs, digital photographs, microphotographs, videotape, other

1 recorded images, (~~or~~) and other records identifying a specific  
2 instance of travel prepared under this section are (~~for the~~  
3 ~~exclusive use of the tolling agency for~~) not open to the public.  
4 Photographs, digital photographs, microphotographs, videotape, other  
5 recorded images, and other records identifying a specific instance of  
6 travel prepared under this section may be used for the following  
7 purposes only: (i) Toll collection and enforcement (~~purposes and are~~  
8 not open to the public and may not be used in a court in a pending  
9 action or proceeding unless the action or proceeding relates to a  
10 civil penalty under this section)) by the tolling agency, including  
11 court proceedings relating to a civil penalty under this section; and  
12 (ii) the investigation and prosecution of crimes pursuant to a  
13 lawfully issued search warrant. (~~No~~) Any photograph, digital  
14 photograph, microphotograph, videotape, other recorded image, or  
15 other record identifying a specific instance of travel may not be  
16 used for any other purpose (~~other than toll collection or~~  
17 enforcement of civil penalties under this section)) and may not be  
18 used in court for any other pending action or proceeding. Except when  
19 otherwise directed by a court order, records identifying a specific  
20 instance of travel by a specific person or vehicle must be retained  
21 only as required to ensure payment and enforcement of tolls and to  
22 comply with state records retention policies.

23 (e) All locations where a photo toll system is used must be  
24 clearly marked by placing signs in locations that clearly indicate to  
25 a driver that he or she is entering a zone where tolls are assessed  
26 and enforced by a photo toll system.

27 (f) Within existing resources, the department of transportation  
28 shall conduct education and outreach efforts at least six months  
29 prior to activating an all-electronic photo toll system. Methods of  
30 outreach shall include a department presence at community meetings in  
31 the vicinity of a toll facility, signage, and information published  
32 in local media. Information provided shall include notice of when all  
33 electronic photo tolling shall begin and methods of payment.  
34 Additionally, the department shall provide quarterly reporting on  
35 education and outreach efforts and other data related to the issuance  
36 of civil penalties.

37 (g) The envelope containing a toll charge bill or related notice  
38 issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil  
39 penalty issued under this section, must prominently indicate that the  
40 contents are time sensitive and related to a toll violation.



1 (7) Civil penalties for toll nonpayment detected through the use  
2 of photo toll systems must be issued to the registered owner of the  
3 vehicle identified by the photo toll system, but are not part of the  
4 registered owner's driving record under RCW 46.52.101 and 46.52.120.

5 (8) The civil penalty for toll nonpayment detected through the  
6 use of a photo toll system is forty dollars plus the photo toll and  
7 associated fees.

8 (9) Except as provided otherwise in this subsection, all civil  
9 penalties, including the photo toll and associated fees, collected  
10 under this section must be deposited into the toll facility account  
11 of the facility on which the toll was assessed. However, through June  
12 30, 2013, civil penalties deposited into the Tacoma Narrows toll  
13 bridge account created under RCW 47.56.165 that are in excess of  
14 amounts necessary to support the toll adjudication process applicable  
15 to toll collection on the Tacoma Narrows bridge must first be  
16 allocated toward repayment of operating loans and reserve payments  
17 provided to the account from the motor vehicle account under section  
18 1005(15), chapter 518, Laws of 2007. Additionally, all civil  
19 penalties, resulting from nonpayment of tolls on the state route  
20 number 520 corridor, shall be deposited into the state route number  
21 520 civil penalties account created under section 4, chapter 248,  
22 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June  
23 30, 2010.

24 (10) If the registered owner of the vehicle is a rental car  
25 business, the department of transportation shall, before a toll bill  
26 is issued, provide a written notice to the rental car business that a  
27 toll bill may be issued to the rental car business if the rental car  
28 business does not, within thirty days of the mailing of the written  
29 notice, provide to the issuing agency by return mail:

30 (a) A statement under oath stating the name and known mailing  
31 address of the individual driving or renting the vehicle when the  
32 toll was assessed; or

33 (b) A statement under oath that the business is unable to  
34 determine who was driving or renting the vehicle at the time the toll  
35 was assessed because the vehicle was stolen at the time the toll was  
36 assessed. A statement provided under this subsection must be  
37 accompanied by a copy of a filed police report regarding the vehicle  
38 theft; or

39 (c) In lieu of identifying the vehicle operator, the rental car  
40 business may pay the applicable toll and fee.

1 Timely mailing of this statement to the issuing agency relieves a  
2 rental car business of any liability under this section for the  
3 payment of the toll.

4 (11) It is the intent of the legislature that the department  
5 provide an educational opportunity when vehicle owners incur fees and  
6 penalties associated with late payment of tolls for the first time.  
7 As part of this educational opportunity, the department may waive  
8 penalties and fees if the issue that resulted in the toll not being  
9 timely paid has been resolved and the vehicle owner establishes an  
10 electronic toll account, if practicable. To aid in collecting tolls  
11 in a timely manner, the department may waive or reduce the  
12 outstanding amounts of fees and penalties assessed when tolls are not  
13 timely paid.

14 (12)(a) By June 30, 2016, the department of transportation must  
15 update its web site, and accommodate access to the web site from  
16 mobile platforms, to allow toll customers to efficiently manage all  
17 their tolling accounts, regardless of method of payment.

18 (b)(i) By June 30, 2016, the department of transportation must  
19 make available to the public a point of access that allows a third  
20 party to develop an application for mobile technologies that (A)  
21 securely accesses a user's toll account information and (B) allows  
22 the user to manage his or her toll account to the same extent  
23 possible through the department's web site.

24 (ii) If the department determines that it would be cost-effective  
25 and in the best interests of the citizens of Washington, it may also  
26 develop an application for mobile technologies that allows toll  
27 customers to manage all of their tolling accounts from a mobile  
28 platform.

29 (13) When acquiring a new photo toll system, the department of  
30 transportation must enable the new system to:

31 (a) Connect with the department of licensing's vehicle record  
32 system so that a prepaid electronic toll account can be updated  
33 automatically when a toll customer's vehicle record is updated, if  
34 the customer has consented to such updates; and

35 (b) Document when any toll is assessed for a vehicle listed in a  
36 prepaid electronic toll account in the monthly statement that is made  
37 available to the electronic toll account holder regardless of whether  
38 the method of payment for the toll is via pay-by-mail or prepaid  
39 electronic toll account.

1 (14) Consistent with chapter 34.05 RCW, the department of  
2 transportation shall develop rules to implement this section.

3 (15) For the purposes of this section:

4 (a) "Photo toll system" means the system defined in RCW 47.56.010  
5 and 47.46.020.

6 (b) "Prepaid electronic toll account" means a prepaid toll  
7 account linked to a pass or license plate number, including "Good to  
8 Go!".

9 (16) If a customer's toll charge or civil penalty is waived  
10 pursuant to this section due to an error made by the department, or  
11 an agent of the department, in reading the customer's license plate,  
12 the secretary of transportation must send a letter to the customer  
13 apologizing for the error.

14 **Sec. 3.** RCW 47.56.795 and 2015 c 292 s 2 are each amended to  
15 read as follows:

16 (1) A toll collection system may include, but is not limited to,  
17 electronic toll collection and photo tolling.

18 (2)(a) A photo toll system may take photographs, digital  
19 photographs, microphotographs, videotapes, or other recorded images  
20 of the vehicle and vehicle license plate only.

21 (b) Notwithstanding any other provision of law, ~~((all))~~  
22 photographs, digital photographs, microphotographs, videotape, other  
23 recorded images, ~~((or))~~ and other records identifying a specific  
24 instance of travel prepared under this chapter are ~~((for the~~  
25 ~~exclusive use of the tolling agency for))~~ not open to the public.  
26 Photographs, digital photographs, microphotographs, videotape, other  
27 recorded images, and other records identifying a specific instance of  
28 travel prepared under this chapter may be used for the following  
29 purposes only: (i) Toll collection and enforcement ~~((purposes and are~~  
30 ~~not open to the public and may not be used in a court in a pending~~  
31 ~~action or proceeding unless the action or proceeding relates))~~ by the  
32 tolling agency, including court proceedings relating to a civil  
33 penalty under RCW 46.63.160; and (ii) the investigation and  
34 prosecution of crimes pursuant to a lawfully issued search warrant.

35 ~~((No))~~ Any photograph, digital photograph, microphotograph,  
36 videotape, other recorded image, or other record identifying a  
37 specific instance of travel may not be used for any other purpose  
38 ~~((other than toll collection or enforcement of civil penalties under~~  
39 ~~RCW 46.63.160))~~ and may not be used in court for any other pending

1 action or proceeding. Except when otherwise directed by a court  
2 order, records identifying a specific instance of travel by a  
3 specific person or vehicle must be retained only as required to  
4 ensure payment and enforcement of tolls and to comply with state  
5 records retention policies. Aggregate records that do not identify an  
6 individual, vehicle, or account may be maintained.

7 (3) The department and its agents shall only use electronic toll  
8 collection system technology for toll collection purposes.

9 (4) Tolls may be collected and paid by the following methods:

10 (a) A customer may pay an electronic toll through an electronic  
11 toll collection account;

12 (b) A customer may pay a photo toll either through a customer-  
13 initiated payment or in response to a toll bill; or

14 (c) A customer may pay with cash on toll facilities that have a  
15 manual cash collection system.

16 (5) To the extent practicable, the department shall adopt  
17 electronic toll collection options, which allow for anonymous  
18 customer accounts and anonymous accounts that are not linked to a  
19 specific vehicle.

20 (6) The transportation commission shall adopt rules, in  
21 accordance with chapter 34.05 RCW, to assess administrative fees as  
22 appropriate for toll collection processes. Administrative fees must  
23 not exceed toll collection costs. All administrative fees collected  
24 under this section must be deposited into the toll facility account  
25 of the facility on which the toll was assessed.

26 (7) Failure to pay a photo toll by the toll payment due date is a  
27 violation for which a notice of civil penalty may be issued under RCW  
28 46.63.160.

29 (8) For an electronic toll collection system that uses an in-  
30 vehicle device, such as a transponder, to identify a particular  
31 customer for the purposes of paying an electronic toll from that  
32 customer's toll collection account, the department must allow such  
33 in-vehicle devices to be offered for sale at vehicle dealers.

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